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April 30, 1999

William E. Kennard, Chairman
Susan Ness
Harold Furchtgott-Roth
Michael Powell
Gloria Tristani
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: DA Docket No. 99-810, previously considered as
CC Docket No. 98-141

Dear Mr. Chairman:

It was with a real sense of interest and hope that members of the National Association of Telecommunications Officers & Advisors (NATOA) learned of your letters with the CEO's of Ameritech and Southwest Bell Communications concerning the possibility that approval of their proposed merger may be conditioned to insure against potential anticompetitive consequences. We have received the announcement of a public forum on this issue on May 6, 1999, and have requested the privilege of addressing the Commission at that time, but want to make our comments known prior to the actual forum.

Most of the parties who have previously expressed concern about this proposed merger have addressed issues of telephony; NATOA wants to make sure that the Commission considers certain potential anticompetitive impacts upon cable television as well. Therefore, we limit our comments here to the effect that this transfer may have on Ameritech's New Media Division (ANM) -- the umbrella for Ameritech's cable television franchises -- and the Nation's largest cable overbuilder. As we expressed in previous comments about this merger in Docket 98-141, we are concerned that ANM's mission of competitive overbuilding of cable systems may be abandoned.

When NATOA representatives met with ANM officials late last summer, ANM told NATOA that its current rate of penetration against the cable incumbents with whom they were competing was a success. However, they were looking at three to five years to amortize their capital investment per new overbuilt franchise they launched. This year, SBC's CEO, Edward E. Whitacre, noted that SBC would examine and retain ANM as long as it is profitable. NATOA is concerned that SBC may ignore the amortization that goes into ANM's capital investment to establish and overbuild a territory. ANM needs to be allowed the time to recoup its investment and prove its profitability

As recently as April 12, 1999, in an interview with *Business Week Magazine*, Mr. Whitacre noted his continued disdain for his company's involvement with cable television, "We haven't done any good in the cable TV business. I'm the guy who said, 'Buy [cable companies] in Washington, DC,' and I'm the same guy who said, 'Let's get out of the business'."

NATOA is concerned about the potential anti-competitive aspects of this proposed transfer of control, in particular the adverse affect it could have in precluding ANM from adding to its cable franchise properties. We are also concerned about the status and success of its existing cable franchises, given SBC's treatment of video properties.

In the Washington, DC, area SBC has abandoned its domestic cable operations, agreeing to sell its Montgomery County, MD, and Arlington County, VA, systems. SBC shuttered its cable system in Richardson, Texas. Similarly, it shuttered PacTel's 8,000 subscriber overbuild operations in San Jose, California. San Jose was caught completely off guard by SBC's actions; in fact only two days before the shutdown, PacTel's executives were outlining a new two-year overbuild strategy.

Acknowledging a likely diminution of effort, Mr. Whiteacre testified before the U.S. Senate Antitrust Subcommittee that he "may pull back on Ameritech's aggressive cable strategy." Senator John McCain lamented that "we have seen the consolidations within the industries; we have seen mergers, rather than competition; and we have seen increased rates, whether they be in cable, or local, or long distance, indicating again that the Telecommunications Act of 1996, whether intended so or not, [has] protected industries and protected everybody but the consumer."

Effective competition in the cable industry has been slow in coming. ANM's success as an effective competitor to incumbent cable operators is due in large part because of its business and structural similarity. Consequently, its success in penetration and erosion of an incumbent's subscriber base has forced the incumbent operator to take action by eliminating increases, lowering prices or other consumer benefits that are the result of *truly effective competition.*

In summary, NATOA requests the FCC to carefully examine the anticompetitive potential in the proposed transfer of control, and to take action to assure that the current and potential benefits that consumers receive via cable TV competition provided by ANM will both continue and increase.

Congress was clear in the pro-competitive path it paved with the Telecommunications Act of 1996. Coupled with your goal to make competition in the cable marketplace a top priority, the Commission should take every measure to ensure the success of ANM's current and future offerings – perhaps the best demonstration of effective competition in cable television to date.

Respectfully submitted,

Jane E. Lawton
President

Rick Maultra
Chair, Legislation and Regulation

Lee Ruck
Executive Director

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cc: Ms. Magalie R. Salas
Secretary, FCC